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March 10, 2004 OFFICIAL

The United States Patent and Trademark Office

Regarding the application:

Applicants: Waltherus, J.W. van Venrooij et al.

Serial no: 09/308,150

Filing date: May 13, 1999

"Peptide derived from an antigen recognized by autoantibodies from patients with rheumatoid arthritis, antibody directed against said peptide, a combinatorial antigen, and a method of detecting auto-immune antibodies"

To the commissioner of Patents and Trademarks  
Washington, D.C. 20231

Dear Sir,

I, Gerardus Antonius Schellekens, declare that,

I am an inventor of the invention described in the above captioned U.S. patent application 09/308,150.

The assignee 'Stichting voor de Technische Wetenschappen' (STW) and her representatives entered a petition under 37 CFR §1.47(a) on September 30, 1999. This petition was based on a untruthful statement by one of the co-inventors. In contrary to what was stated in this declaration, documents concerning the U.S. application were not presented to me at this occasion, nor did I refuse to sign any such documents.

On June 16, 2003, for the first time a document (the 'declaration') was presented to me with a request to sign it. Some time later the 'assignment' document was presented to me with a request to sign. Never any effort was made by the STW or her representatives to explain to me what I was requested to sign, nor for what purpose. On July 2, 2003 I signed both documents that were legalized and the documents were forwarded to the patent attorney office that represents the STW.

On January 25, 2004 I was requested by a lawyer representing STW to sign the 'declaration' document again. The explanation given to me was that "the document was lost at the offices of the USPTO". I requested some form of proof that the document indeed got lost at the offices of the USPTO. I received no reaction on this request and on February 20, 2004 I contacted the patent examiner at the USPTO by phone. He could not confirm that the document indeed got lost at the offices of the USPTO. I confronted the lawyer representing STW with this on February 20, 2004. As a reaction I received on March 2, 2004 the 'decision on petition under 37 CFR 1.47(a)' by the USPTO dated September 24, 2003.

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From this USPTO decision I concluded that a second attempt was made by STW to pass a 'refusal to join' by submitting a renewed petition under 37 CFR §1.47(a) on June 17, 2003. Again, I state that I never refused to sign any document concerning the U.S. patent application.

Moreover, from the USPTO decision I concluded that the explanation that my signature was required because the 'declaration' was lost at the offices of the USPTO, as stated by the lawyer of STW on January 25, was not in agreement with the facts.

It was after signing the 'declaration' and 'assignment' documents on July 2, 2004 that I became aware of the facts stated above. I conclude now that the actions of STW and her representatives are characterized by lies, deceit and are illegitimate with respect to the petitions entered on September 30, 1999 and June 17, 2004.

I can not excuse such conduct by STW, and by signing any document I would condone their action. Therefore I can and will not at this moment, sign any document concerning U.S. patent application 09/308,150. However, if at some point in time the above mentioned problems are dealt with in a satisfactory manner, I will consider to join as an inventor in the application. In this case I will enter a request as such to the USPTO.

Moreover, a more formal reason that forces me not to join in the application at this moment exists. Application 09/308,150 claims priority of the foreign patent application NL97/00624. Under the patent law of the Netherlands only the inventors or, under certain conditions, the employer of the inventors, have the right to file for patent. STW was never my employer. My former employer at the time of the invention was 'De Nederlandse Organisatie voor Wetenschappelijk Onderzoek' (NWO). It is however doubtful that there ever was a legal assignment of the Dutch patent rights from NWO to STW. Possibly, a ruling concerning this matter is due in the course of 2004 by the Supreme Administrative Court of the Netherlands. By signing any documents as requested by STW concerning patent application 09/308,150, I would disregard a possible legal improper situation in the Netherlands. I can only sign at the moment that this legal issue in the Netherlands is clarified and there is no doubt whether STW is indeed the rightful owner.

I declare with knowledge of the documents concerned and in consideration of the above mentioned circumstances, that at this moment the situation unfortunately forces me not to join as an inventor in the application 09/308,150, and that this declaration can formally be considered as a pertinent refusal to join.

I hereby declare that all statements made herein to my knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: March 12, 2004

  
Gerardus Antonius Schellekens

USPTO  
To the attention of  
Mr. F.P. VanderVegt, examiner  
Group Art Unit 1644

by facsimile: +1 (703) ~~305-7230~~

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Dear Mr. VanderVegt ,

The assignee/applicant of the above captioned U.S. patent application (STW) requested me to sign, for the second time, a 'declaration for utility or design patent application (37 CFR 1.63)'. I want to stress that at this moment, under the given circumstances, it is not possible for me to join in the application. Therefore I enclosed with this message a declaration that can be regarded as a formal refusal to join.

The original declaration will be forwarded to the patent attorney of STW tomorrow so sufficient time remains for the STW to enter a legitimate petition under 37 CFR 1.47(a).

Yours Sincerely,



G.A. Schellekens  
De Tondeldoos 36  
5231 WB Den Bosch  
The Netherlands  
Phone: +31 (0)73 6424813  
fax: +31 (0)73 5216488